

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

CHRISTOPHER HIGA,

Plaintiff,

v.

STATE OF NEVADA, et al.,

Defendants.

Case No. 3:24-cv-00091-ART-CLB

ORDER

Plaintiff Christopher Higa brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at Northern Nevada Correctional Center. (ECF No. 1-1). On September 25, 2024, this Court ordered Higa to file his updated address and either pay the \$405 filing fee or file an application to proceed *in forma pauperis* for non-inmates by October 24, 2024. (ECF No. 5). That deadline expired without an updated address and either payment of the filing fee or an *in forma pauperis* application from Higa, and his mail from the Court is being returned as undeliverable. (ECF No. 6).

**I. DISCUSSION**

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party’s failure to obey a court order or comply with local rules. *See Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order). In determining whether to

1 dismiss an action on one of these grounds, the Court must consider: (1) the  
2 public's interest in expeditious resolution of litigation; (2) the Court's need to  
3 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy  
4 favoring disposition of cases on their merits; and (5) the availability of less drastic  
5 alternatives. *See In re Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217,  
6 1226 (9th Cir. 2006) (quoting *Malone*, 833 F.2d at 130).

7 The first two factors, the public's interest in expeditiously resolving this  
8 litigation and the Court's interest in managing its docket, weigh in favor of  
9 dismissal of Higa's claims. The third factor, risk of prejudice to defendants, also  
10 weighs in favor of dismissal because a presumption of injury arises from the  
11 occurrence of unreasonable delay in filing a pleading ordered by the court or  
12 prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir.  
13 1976). The fourth factor—the public policy favoring disposition of cases on their  
14 merits—is greatly outweighed by the factors favoring dismissal.

15 The fifth factor requires the Court to consider whether less drastic  
16 alternatives can be used to correct the party's failure that brought about the  
17 Court's need to consider dismissal. *See Yourish v. Cal. Amplifier*, 191 F.3d 983,  
18 992 (9th Cir. 1999) (explaining that considering less drastic alternatives *before*  
19 the party has disobeyed a court order does not satisfy this factor); *accord*  
20 *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th Cir. 2002). Courts “need not  
21 exhaust every sanction short of dismissal before finally dismissing a case, but  
22 must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779  
23 F.2d 1421, 1424 (9th Cir. 1986). This Court cannot operate without collecting  
24 reasonable fees from parties, and litigation cannot realistically proceed without  
25 the ability for the Court and defendants to send Higa case-related documents.  
26 The only alternative to dismissal here is issuing a second order setting another  
27 deadline. But without an updated address, the likelihood that the second order  
28 would even reach Higa is low. Issuing a second order is not a meaningful

1 alternative given these circumstances. So the fifth factor favors dismissal.

2 **II. CONCLUSION**

3 Having thoroughly considered these dismissal factors, the Court finds that  
4 they weigh in favor of dismissal. It is therefore ordered that this action is  
5 dismissed without prejudice based on Christopher Higa's failure to file an  
6 updated address and either pay the filing fee or file a new application to proceed  
7 *in forma pauperis* in compliance with this Court's September 25, 2024, order. The  
8 Clerk of Court is directed to enter judgment accordingly and close this case. No  
9 other documents may be filed in this now-closed case. If Christopher Higa wishes  
10 to pursue his claims, he must file a complaint in a new case, provide the Court  
11 with his current address, and either pay the filing fee or apply for pauper status.  
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13 Dated this 31<sup>st</sup> day of October 2024.

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16 ANNE R. TRAUM  
17 UNITED STATES DISTRICT JUDGE  
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